

Law and Order in the Emerald City: Using *The Wizard of Oz* to Illustrate Homicide Principles

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Over the last ten years of teaching criminal law, I have had the opportunity to evaluate several techniques to make the course interesting to students and to encourage them to think outside the box when learning new legal principles. One of the techniques for which I have consistently received positive feedback is the use of video clips to generate class discussion. This technique works with all class sizes, including very large classes of over 100 students. My favorite criminal law video clip is from *The Wizard of Oz*.¹ I love using clips from this movie because almost every student, no matter what age, has seen it at some point in his or her life—and those who haven't seen it have at least heard about it.

The *Oz* clip I use most often starts toward the end of the movie as Dorothy and her cohorts² are trying to escape from the castle of the Wicked Witch of the West. They are cornered by the Witch and castle guards (a.k.a. “Winkies”), and eventually the Witch is “melted” as a result of Dorothy's actions. After retrieving the Witch's broom, they return to the Wizard, where they expect him to make good on his earlier promises. The clip runs about five minutes, which leaves a good amount of discussion time in a sixty to seventy-five minute class. This clip can be used in at least two different ways: (1) to illustrate general criminal law principles of mens rea and actus reus and (2) as a review of homicide and self-defense. The depth and focus of the discussion will obviously vary depending on how far into the course you are at the time you show it. Because I integrate the discussion of mens rea and actus reus in with the course materials on homicide, followed by self-defense, I tend to use the clip as a vehicle for reviewing these materials.

I start the class by dividing the 120–140 students into three groups (based on the part of the classroom where they sit): Prosecutors, Defense Attorneys and Jurors. Before showing the clip, I explain that they should be looking for evidence relevant to the following charges/defendants: The Tin Man: Assault/Battery of the Winkies (by causing the chandelier to fall on them); The Witch (taking a step back in time and assuming she is not dead): Attempted Murder of the Scarecrow; and Dorothy: Murder of the Witch.

After showing the video clip, the prosecutors and defense attorneys are asked to discuss their arguments in small groups before presenting them to the class,

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¹ THE WIZARD OF OZ (Metro-Goldwyn-Mayer 1939).

² The Scarecrow, the Tin Man, and the Cowardly Lion.

while the jurors are encouraged to think about things from a more neutral standpoint. After five to ten minutes of small group discussion, we start the trials. For each charge/defendant, I call on students from the assigned groups (prosecutors, defense attorneys and jurors) to discuss their legal arguments and findings.

I generally start with the easiest discussion—the Assault/Battery charge against the Tin Man (for causing the chandelier to drop on the Winkies). Many times the students want to start with a discussion of self-defense or defense of others. However, there is actually a better argument: lack of *actus reus*. The Tin Man did not actually cut the rope that released the chandelier. The Scarecrow grabbed the Tin Man's arm (which was holding an axe) and forcefully moved it so that the axe would cut the rope and release the chandelier. A textbook example of an involuntary movement that would not satisfy the *actus reus* element of Assault/Battery. Once this point is established (someone generally catches it), then we discuss whether the Scarecrow could be charged with Assault/Battery—which leads to a discussion of self-defense and defense of others.

Next, is the trial of the (now reconstituted) Witch for attempted murder of the Scarecrow (when she caught his straw-stuffed arm on fire). I begin by asking the prosecutors what evidence they would use to prove her intent to kill. The resulting discussion generally brings out the following facts: her use of a deadly weapon (i.e. fire); the deliberate lighting of her broom with fire from one of the wall sconces; and, of course, her statement right before the Scarecrow was ignited, "The last to go will see the first three go before her." What better evidence of intent to kill could fall into a prosecutor's lap? The defense generally raises self-defense on behalf of their client (after all, the Scarecrow was an uninvited guest who broke into the castle), and argues that all the prosecution's evidence regarding intent to kill is circumstantial.³

Finally, we try Dorothy for Murder of the Witch (who is now considered to be officially dead). In terms of proving intent to kill, the prosecutors generally focus on her attitude after melting the witch (she was mainly concerned about getting the broom) and her statements to the Wizard when she presented the broom to him and proudly stated, "We melted her." Many times, students will also bring up the original discussion with the Wizard wherein he promised to grant Dorothy and her cohorts' respective requests if they brought him the Witch's broomstick (which meant they would have to kill her) as proof that Dorothy had the intent to kill when they all headed to the Witch's castle.⁴ Of course, the defense has many arguments in response—including that she was not aware water would melt the Witch (after

³ Occasionally, I will distribute a "Penal Code of Oz" to the students before the discussion, which defines murder as the killing of a human being. In this instance, the defense attorneys can make a statutory interpretation argument regarding whether the Scarecrow is a "human being" under Oz law.

⁴ This particular scene also generates an excellent discussion regarding conspiracy. Did Dorothy and her cohorts have a conspiracy with the Wizard to commit burglary (of the castle), larceny (of the broomstick), or murder of the Witch?

all if water was that dangerous why would the Witch leave a bucket of it lying openly around the castle?); that she only had the intent to save the Scarecrow at the time she threw the bucket of water, not to kill the Witch;⁵ and her statement right after the melting, “I didn’t mean to kill her, really I didn’t. It’s just that he [the Scarecrow] was on fire.” In addition to murder, we also discuss potential lesser included offenses such as involuntary manslaughter, which invites arguments regarding whether Dorothy’s lack of knowledge about the lethal effect of water on the Witch was criminally negligent. Of course, self-defense and defense of others are also generally raised as affirmative defenses. The discussion with the group of students assigned to be jurors is always interesting and instructive too. Inevitably, some students will bring up issues relating to compromise and jury nullification—an often overlooked aspect of the criminal justice system in doctrinal classes that tend to focus solely on the law, as opposed to the reality of criminal practice.

In my experience, video clips have proven to be very effective in terms of generating class discussion and getting students to think outside the pages of their textbook. Even though I have used this clip for the last ten years, students come up with new and creative arguments every time I show it.

⁵ This can also lead to a more advanced discussion regarding the absence of motivational concurrence.

